

REMARKS

Applicants acknowledge receipt of the Examiner's Office Action dated March 13, 2007. This Office Action rejected all claims pending at that time as being anticipated by U.S. Patent Application Publication No. 2004/0260873 filed by Watanabe (Watanabe). In light of the foregoing amendments and following remarks, Applicants respectfully request the Examiner's reconsideration of all pending claims.

As noted, each of the independent claims were rejected under 35 U.S.C. §102 as being anticipated by Watanabe. Applicants have amended each of the independent claims to recite features that are not taught or fairly suggested in those sections of Watanabe cited in the Office Action. For example, independent Claim 1 now recites maintaining a "synchronous" copy of a data change log, and "asynchronously" updating a secondary data volume... using said synchronous copy of said data change log, features that are not taught or fairly suggested in the sections of Watanabe cited in the Office Action. Accordingly, Applicants submit that independent Claim 1 is patentably distinguishable over the cited sections of Watanabe.

Independent Claims 11, 19, and 27 have been amended to recite features that are similar to those added to independent Claim 1. Applicants assert that independent Claims 11, 19, and 27 are patentably distinguishable over the cited sections of Watanabe for the same or similar reasons that independent Claim 1 is patentably distinguishable set forth above.

Independent Claim 35 has been amended to recite maintaining a synchronous copy of a data change log and asynchronously replicating data to be written to said primary data volume from said primary node to said secondary node. While Watanabe discloses asynchronous transfer mode in paragraph [0067], Watanabe does not teach or fairly suggest asynchronous replication in paragraph [0067]. One of ordinary skill in the art would clearly understand asynchronous replication to be a concept that is distinct from the asynchronous transfer mode network mentioned in paragraph [0067].

Indeed, one of ordinary skill in the art can appreciate that asynchronous replication can be employed using any of the network technologies (i.e., fiber channel, Ethernet, Internet protocol, or asynchronous transfer mode) mentioned in paragraph [0067]. Accordingly, Applicants assert that independent Claim 35 is patentably distinguishable over the cited sections of Watanabe.

The remaining claims depend directly or indirectly from the independent claims, and are patentably distinguishable for this reason.

### CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5093.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,



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